

REMARKS

This amendment is in response to the Office Action dated April 10, 2008 (hereinafter "the Office Action") and the Advisory Action dated August 14, 2008 (hereinafter "the Advisory Action"). The Advisory Action denied entry of the amendment filed on July 10, 2008 and, in the words of the Advisory Action, was "a courtesy response intended to clarify issues raised by applicant in [that] amendment." The instant amendment is being filed concurrently with a Request for Continued Examination.

Claims 1-19 and 23-25 are pending in this application. By this amendment, Applicants have amended claims 1, 7, 9, 13, 19 and 23-25, and have canceled claim 5 without prejudice or disclaimer.

Reconsideration of the above-identified application in view of the foregoing amendments and the following remarks is respectfully requested.

Objections to the Drawings:

In the Office Action, the drawings were objected to on grounds that the terms "first level", "second level", "quantity of announcement information indicator", "display" and "category", which appear in the claims of the instant application, should be shown in the drawings or deleted from the claims.

With respect to the claim terms "first level" and "second level", Applicants have amended FIG. 3 to indicate that the Root Messages and the Channel X messages reside on the second level and first level, respectively (wherein the first level is lower than the second level, as indicated, e.g., in claim 1) by adding the label "Second Level" on the left immediately above the first horizontal line in FIG. 3 and the label "First Level" on the left immediately above the second horizontal line in FIG. 3. Support for these amendments can be found, e.g., on p. 8, lines

13-27 and p. 5, lines 10-24, as will be discussed more fully hereinafter in connection with Applicants' response to the Objection to the Specification/Rejections Of Claims 1, 2, 7-10, 13, 14, 19 and 23-25 Under 35 U.S.C. §112, ¶1.

With respect to the term "display" recited in the claims, this feature is shown in FIG. 2, reference numeral 37. In the Advisory Action, Applicants have been advised that the objection to the term "display" has been withdrawn.

With respect to the terms "quantity of announcement information indicator" and "category" recited in the claims, Applicants have amended FIG. 3 and, more specifically, the first RM message shown therein to include both a quantity of announcement information indicator and a category indicator. Support for these amendments can be found, e.g., on page 8, lines 15-17 & p. 5, lines 10-12. With further respect to the claim term "category", Applicants note that exemplary categories are clearly shown in, e.g., FIG. 4 ("News", "Sports" and "Entertainment"). In the Advisory Action, Applicants have been advised that the objection to the term "category" has been withdrawn.

The drawings also have been objected to on grounds that several boxes appearing in FIG. 3 should be labeled. Applicants have amended FIG. 3 by adding "RM" within each of the two unlabeled boxes at the top of FIG. 3. It is clear from FIG. 3 that these are additional root level messages since they are depicted in FIG. 3 as being transmitted on the root level. Applicants also have amended FIG. 3 by adding "Xi" to the unlabeled box in the middle of FIG. 3 (under Step "F" in that figure) and correspondingly adding "Xi" after the word "messages" on p. 8, line 33 of the PCT specification. Lastly, Applicants have amended FIG. 3 by adding labels "Y1", "Y2", "Y3", "Y4" ... "Yi", "Yj" and "Yk" to the blank boxes at the bottom of FIG. 3, as suggested by the Examiner in the Advisory Action, and also have added those labels to the PCT

specification after the first occurrence of the word "messages" on page 8, line 31. Support for these amendments can be found, e.g., on page 8, line 13 through page 9, line 2, when read with reference to original FIG. 3.

Applicants respectfully submit that no new matter has been added.

In view of the foregoing, Applicants respectfully request that the objections to the drawings be withdrawn.

Objections to the Claims:

In the Office Action, claims 1, 7, 9, 13, 19 and 23-25 were objected to on grounds that various elements in these claims should be separated by semi-colons or colons rather than by commas. Applicants have amended the foregoing claims in that regard and respectfully request that the objections be withdrawn.

Objection to the Specification/Rejections Of Claims 1, 2, 7-10, 13, 14, 19 and 23-25 Under 35 U.S.C. §112, ¶1:

In the Office Action, the specification was objected to on grounds that the phrase "wherein the first level is lower than the second level", which was added to the claims by the December 4, 2007 Amendment, allegedly is not supported by the specification, and thus, allegedly constitutes new matter. The Examiner contends that the specification instead supports only a second level being lower than the first level.

Also in the Office Action, claims 1, 2, 7-10, 13, 14, 19 and 23-25 were rejected as allegedly failing to comply with the enablement requirement on grounds that the claimed phrase "wherein the first level is lower than the second level" is not supported by the specification and is unclear in meaning.

Applicants respectfully disagree and submit that the foregoing claims correctly define the levels on which the announcements reside as disclosed in the specification of the instant application.

As discussed in the remarks of the July 10, 2008 amendment that was denied entry, page 8, lines 13 to 27 of the instant application is useful in illustrating the support in the specification for the feature of “wherein the first level is lower than the second level”, as found in claim 1. Here it is said that the root level message RM is at the highest level and that the RM message includes all the information about announcements on a lower level. The information is said to include the number of messages on the channel (in the exemplary case 3) and a timeout value. From page 5, lines 10 to 24 of the application it is shown that this message indicates a category of the announcements on the lower level. The RM message of this text equates to the data recited in the second ‘broadcasting or multicasting’ step of the claim 1, namely category and quantity data. The messages on channel X (indicated at X1, X2 and X3 in Figure 3 of the instant application) equate to the ‘one or more announcements’ recited in the first ‘broadcasting or multicasting’ step of claim 1. These messages are at a lower level than the RM messages -- see, e.g., Figure 3.

In the Advisory Action, the Examiner noted that Applicants “cited page 5, lines 10-24 and page 8, lines 13-27, as supporting the claimed feature, ‘wherein the first level is lower than the second level’ in the hierarchy of broadcasting or multicasting one or more announcements.” The Examiner reproduced page 5, lines 10-24 of the instant application on pages 2-4 of the Advisory Action and stated that the “Examiner does not find a reading in this text supporting the claimed feature”. Thus, the Examiner maintained “the feature in question” as new matter. (See Advisory Action, p. 4)

Applicants respectfully submit that page 5, lines 10-24 of the instant application provides clear support for the claimed features. As previously discussed, these features of claim 1 require “one or more announcements on a first level of the hierarchical structure”, “data indicating a category … and data indicating the quantity of announcement information” that is broadcast or multicast on a second level of the hierarchical structure, and “wherein the first level is lower than the second level”.

The claimed “one or more announcements on a first level of the hierarchical structure” of claim 1 relate to the “announcement messages from channel X” that is mentioned in the specification at the passage thereof quoted by the Examiner four and five lines from the bottom of page 3 of the Advisory Action (the text of which corresponds to page 8, line 19 of the instant application). The claimed “data indicating a category … and data indicating the quantity of announcement information” that is broadcast or multicast on a second level of the hierarchical structure, relate to the RM message that is mentioned in the specification at the passage quoted by the Examiner eight lines from the bottom of page 3 of the Advisory Action (page 8, line 15 of the instant application). Since it is mentioned in the specification at the passage quoted by the Examiner seven lines from the bottom of page 3 of the Advisory Action (page 8, line 16 of the instant application) that the RM message relates to “announcements on a lower level” than the root level (that is to say, the level at which the RM message is included), and that this is “typically the level immediately below the root level”, Applicants respectfully submit that it is clear from the specification that the claimed “one or more announcements” are on a lower level than the claimed “data indicating a category … and data indicating the quantity of announcement information”. Thus, the instant application at page 5, lines 10 to 24 is consistent with the subject matter of claim 1.

Accordingly, Applicants respectfully submit that claim 1 correctly defines the relationship between the levels disclosed in the specification. More specifically, the claimed phrase “wherein the first level is lower than the second level!” does not constitute new matter and instead finds clear support in the specification. The other claims also correctly state the relationship between the levels and the messages/announcements/data thereon as disclosed in the specification. It may be that the Examiner’s confusion has resulted from the claims discussing the lower level before discussing the higher level, but Applicants respectfully submit that this does not pose a valid ground for rejection.

Accordingly, Applicants respectfully request that the objections to the specification and the rejections of claims 1, 2, 7-10, 13, 14, 19 and 23-25 under 35 U.S.C. §112, ¶1 be withdrawn.

Rejection Of Claim 5 Under 35 U.S.C. §112, ¶1:

In the Office Action, claim 5 was rejected as allegedly lacking enablement. Applicants have canceled claim 5 and respectfully request that the rejection be withdrawn.

Rejections Under 35 U.S.C. §103:

In the Office Action, claims 1-5, 7-16, 19 and 23-25 were rejected under 35 U.S.C. §103 as being unpatentable over Bell in view of Chernock.

Claims 6 and 18 were rejected under 35 U.S.C. §103 as being unpatentable over Bell in view Chernock and Kelly.

Claim 17 was rejected under 35 U.S.C. §103 as being unpatentable over Bell in view of Chernock and Kitson.

Claims 1, 7, 9, 13, 19 and 23-25 are drafted in independent form.

Claim 1, as amended, is directed to a method comprising:

broadcasting or multicasting, one or more announcements on a first level of a hierarchical structure, the one or more announcements relating to a category of an information service; and

broadcasting or multicasting on a second level of the hierarchical structure:

data indicating a category to which the one or more announcements transmitted at the first level relate; and

data indicating the quantity of announcement information constituting the one or more first level announcements,

wherein the first level is lower than the second level.

As discussed in the remarks section of the July 10, 2008 amendment that was denied entry, it appeared to Applicants from the rejection of claim 1, that the Examiner considered that baseball statistics disclosed in Chernock (see, e.g., column 10 lines 51 to 56) constitute the "data indicating the quantity of announcement information" of claim 1, which, as further required by claim 1, is broadcast or multicast. Applicants respectfully submitted that this would be based upon a strained interpretation of claim 1, which is not supported by the specification, and thus, would be both unreasonable and improper. In particular, the term "data indicating the quantity of announcement information constituting the one or more first level announcements", as recited in claim 1, clearly and unambiguously denotes the quantity of the announcement information, not a quantity included within the announcement information. At page 8 lines 21 to 23 of the instant application, the example given of a quantity of announcement information is three messages, i.e., the quantity is three. Although not mentioned in the specification, it is perhaps within the scope of claim 1 that the quantity could be expressed, e.g.,

as a number of bytes. However, it is not within the scope of claim 1 or the instant disclosure that the quantity of announcement information is only a value (e.g., a baseball statistic) that is included within the announcement itself.

Thus, Applicants respectfully asserted that Chernock fails to teach or suggest the “broadcasting or multicasting … data indicating the quantity of announcement information” feature of claim 1, and thus, that the combination of Bell and Chernock does not render claim 1 obvious.

In the Advisory Action, the Examiner maintained the rejection in view of Applicants’ remarks, as follows:

Examiner respectfully disagrees with the argument. The teaching of Chernock is directed to a personalized data delivery system (see abstract) wherein the data is delivered in a hierarchical fashion wherein the next level includes more detail information than the level above it (see col. 9, lines 22-57, including table 1) and the information includes at least, - details regarding the source of the information, number of information choices displayed, etc. Thus the argument that it is directed to baseball statistics does not apply to the cited portion. The portion applicant cited in Chernock (col. 10, lines 51-56) rather shows baseball statistics and other related information, as additional and optional service. In conclusion, examiner does not find the argument convincing and thus the rejection stand. (Advisory Action, p. 5) (emphasis in original)

Thus, the Examiner appears to be basing the rejection on Chernock’s disclosure of “[d]etails regarding the … number of information choices displayed” as found in col. 11, lines 45-47 of Chernock (not col. 9, lines 22-57 as the Examiner appears to be asserting in the above-quoted passage from the Advisory Action). However, at the very least, col. 11, lines 45-47 of Chernock does not relate to data that is broadcast or multicast, as required by amended claim 1. Instead, it relates only to preferences as to what information is overlaid with TV/video content and, as such, must be assumed to be information that resides in the set-top box (“STB”) without having been broadcast to, and received by, the STB. Chernock does disclose broadcasting information (including broadcasting baseball statistics) but Chernock does not

disclose that any of the information that is broadcast is “data indicating the quantity of announcement information”, as required by claim 1.

Thus, Applicants respectfully reiterate that Chernock fails to teach or suggest the “broadcasting or multicasting … data indicating the quantity of announcement information” feature of claim 1 and therefore assert that the combination of Bell and Chernock does not render claim 1 obvious. Accordingly, Applicants respectfully submit that claim 1 is patentable in view of Bell and Chernock.

Independent claims 7, 9, 13, 19 and 23-25 contain features similar to those found in claim 1 (e.g., a quantity of announcement information that is broadcast or multicast or, in some claims, received). Accordingly, those claims are allowable for at least the same reasons as set forth above in urging the allowance of claim 1.

Dependent Claims:

Applicants do not believe it necessary at this time to address the rejections of the dependent claims as Applicants believe that the foregoing places the independent claims in condition for allowance. Applicants, however, reserve the right to address those rejections in the future should such a response be deemed necessary and appropriate.

CONCLUSION

Applicants respectfully submit that this Application is in condition for allowance for which action is earnestly solicited.

If a telephone conference would facilitate prosecution of this Application in any way, the Examiner is invited to contact the undersigned at the number provided.

AUTHORIZATION

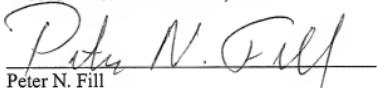
The Commissioner is hereby authorized to charge any additional fees which may be required by this response, or credit any overpayment to Deposit Account No. 13-4500, Order No. 4208-4233.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 4208-4233.

Dated: September 8, 2008

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

By:


Peter N. Fill
Registration No. 38,876

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101
(212) 415-8700 Telephone
(212) 415-8701 Facsimile